

# **Legislative Line Item Veto Act of 2006: Background and Comparison of Versions**

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## Summary

Under current law, the President may propose to rescind funding provided in an appropriations act by transmitting a special message to Congress. If Congress ignores the presidential rescission request, or if either house rejects the request, the funds must be released after 45 days of continuous session. Instead of allowing Congress to ignore such requests, “expedited rescission” requires at least one house to vote on presidential proposals. Expedited rescission bills have attracted supporters over the years, because the approach is generally regarded as transferring less power from Congress to the President than most other ways of altering the rescission framework. For three consecutive years in the early 1990s, the House passed an expedited rescission bill.

President George W. Bush has repeatedly called for granting line item veto authority to the President, and an Administration draft bill incorporating the expedited rescission approach was sent to Congress on March 6, 2006. That bill, the Legislative Line Item Veto Act (LLIVA) of 2006, was introduced the following day as S. 2381 and H.R. 4890. Other expedited rescission measures pending in the 109<sup>th</sup> Congress contain similar provisions, including H.R. 2290 (Section 311), H.R. 4699, H.R. 5667 (Title I), S. 2372, and S. 3521 (Title I).

On June 14, 2006, the House Budget Committee voted 24-9 to report H.R. 4890, as amended, favorably. The next day the Rules Committee voted 8-4 to report an amended version in effectively the same form as that approved by the Budget Committee. On June 22, 2006, the House approved H.R. 4890 by a vote of 247-172.

Meanwhile, on June 14, 2006, Senator Judd Gregg, the chair of the Senate Budget Committee, and others held a press conference to unveil the Stop Over Spending Act, which contained a modified version of the LLIVA in Title I, as well as other budget process reforms. On June 15, 2006, the bill was introduced as S. 3521 on June 20, the Senate Budget Committee voted 12-10 to report the bill, as amended, favorably.

This report provides a comparative overview of some major features in three versions of the LLIVA—H.R. 4890/S. 2381 as introduced, H.R. 4890 as passed by the House, and Title I of S. 3521, as ordered to be reported by the Senate Budget Committee—with provisions in the Line Item Veto Act of 1996 (P.L. 104-130), which the Supreme Court held unconstitutional in 1998.

This report will be updated when action is taken regarding any of the relevant bills or as other events warrant.

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## Background

Under the framework established by the Impoundment Control Act (ICA) of 1974 (P.L. 93-344, 88 Stat. 297), the President may propose to rescind funding provided in an appropriations act by transmitting a special message to Congress and obtaining the support of both houses within 45 days of continuous session. If denied congressional approval during this time period, either by Congress ignoring the presidential rescission request or because one or both houses rejected the proposed rescission, the President has to make the funding available to executive agencies for obligation and expenditure.

President George W. Bush had access to the item veto as Governor of Texas and has called repeatedly for similar authority for the President. For example, in his State of the Union address on January 31, 2006, he said, “We can tackle this problem [of too many special interest ‘earmark’ projects] together, if you pass the line-item veto.”<sup>1</sup> An Administration draft bill, titled the Legislative Line Item Veto Act of 2006 (LLIVA), was transmitted to Congress on March 6, 2006.

Instead of allowing Congress to ignore presidential recommendations for rescissions, “expedited rescission” requires at least one house to vote on the proposals. If either house disapproves the request, the other house need take no action because approval by both houses is necessary to make the rescission permanent. In contrast, “enhanced rescission,” briefly available under the Line Item Veto Act of 1996 (P.L. 104-130, 110 Stat. 1200), altered the rescission framework to create a presumption favoring the President.<sup>2</sup> Under enhanced rescission, spending reductions identified in special presidential messages remain permanently cancelled unless Congress enacts a disapproval bill. Should the President veto that disapproval bill, a two-thirds majority in both chambers would be needed to override the veto.

Expedited rescission bills focus on procedural changes in Congress and typically contain a detailed schedule to ensure immediate introduction of a measure to approve the President’s rescission request, prompt reporting by committee or automatic discharge, special limits on floor amendments and debate, and so on. Under expedited rescission, congressional approval is still necessary to rescind the funding, but the fast-track procedures help to encourage an up-or-down vote on the President’s proposal.

## Expedited Rescission Bills in the 1990s

The expedited rescission approach has attracted support over the years, because it is generally regarded as transferring less power from Congress to the President than most other approaches that would modify the ICA framework. In 1992, 1993, and 1994, the House passed an expedited rescission bill each year.<sup>3</sup> In the 102<sup>nd</sup> Congress, H.R. 2164, passed by the House in 1992, would have allowed the President to transmit special rescission messages within three days of signing an

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<sup>1</sup> Constitutions in 43 states provide an item veto to allow the Governor to eliminate discrete items in a bill before signing the measure into law, but a constitutional amendment would be necessary to give the President such “true” line item veto authority. Various statutory alternatives such as expedited rescission are sometimes referred to as giving the President a “line item veto”; this is not entirely accurate, but calls attention to some functional similarities.

<sup>2</sup> The Supreme Court struck down this previous statutory effort, to create item-veto-like authority for the President via enhanced rescission, in *Clinton v. City of New York*, 524 U.S. 417 (1998).

<sup>3</sup> For further discussion of efforts to grant the President expanded impoundment authority and of related floor votes, see CRS Issue Brief IB89148, *Item Veto and Expanded Impoundment Proposals* (hereafter cited as CRS Issue Brief IB89148); and CRS Report RL30223, *Presidential Rescission Authority: Efforts to Modify the 1974 Framework*, by Virginia A. McMurtry. As described therein, the Senate voted on bills using other approaches, such as enhanced rescission.

appropriations act; each message could have proposed rescissions from one act. A proposed rescission could not have reduced a program below the budget level of the previous year or by more than 25% for a new program. The bill included expedited procedures to encourage a floor vote within 10 days of introduction, with no amendments allowed.

In the 103<sup>rd</sup> Congress, H.R. 1578, as passed by the House in 1993, had no limit on the amount that could be rescinded, allowing the President to request rescission of 100% of a program's funding, thereby effectively eliminating it. H.R. 1578 also contained provisions for expedited judicial review. In a significant departure from previous expedited rescission measures, H.R. 1578, as approved by the House, detailed fast-track procedures for expedited consideration of a rescission's substitute, as reported by the Appropriations Committee, to provide an alternative to the President's package.

In the second session of the 103<sup>rd</sup> Congress, H.R. 4600 came to the floor and passed the House in 1994 with a substitute amendment, characterized by its supporters as strengthened expedited rescission. H.R. 4600, as approved by the House, would have allowed submission of a special rescission message at any time, but retained the requirement to prepare a separate special message and accompanying draft bill for each appropriations subcommittee having jurisdiction over accounts in a given appropriations act from which rescissions were requested. Further, H.R. 4600 would have authorized special messages from the President proposing the repeal of any targeted tax benefit within 20 days following enactment. During floor consideration under the expedited procedures, a motion to strike any proposed rescission or repeal of targeted tax benefit would have been in order if supported by 50 Members in the House, or by 15 in the Senate.

## **Overview of Provisions in the Administration's Proposal**

On March 7, 2006, a draft expedited rescission bill from the White House, titled the Legislative Line Item Veto Act of 2006, was introduced as H.R. 4890 and S. 2381. In addition to the existing rescission authority accorded the President under the 1974 ICA framework, the Administration bill proposed to amend the ICA by inserting a new "Part C—Legislative Line Item Veto." The provisions would authorize the President, in a special message to Congress, to propose (1) rescission of any dollar amount of discretionary budget authority in an appropriations act; (2) rescission of any item, in whole or part, of direct spending; or (3) repeal of targeted tax benefits. The contents of the special message were specified, including a draft bill to approve the President's request. The LLIVA would grant the President considerable flexibility in the submission and packaging of the special messages. There are no time constraints, and a single message may include any number of rescissions. Further, the LLIVA does not stipulate that a special message be confined to a single public law; therefore, one message may encompass budget authority or items of direct spending from several laws. Any amounts rescinded must be used for deficit reduction. Within five days of enactment of a rescission approval bill, the chairmen of the Budget Committees would be required to adjust committee allocations accordingly, and the Office of Management and Budget would be required to adjust spending caps under the Balanced Budget and Emergency Deficit Control Act (P.L. 99-177, 99 Stat. 1037).<sup>4</sup>

Under the bill, rescission requests from the President would be considered under fast-track procedures. The President's proposed bill could be introduced by the House and Senate

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<sup>4</sup> Currently, spending caps exist for conservation spending for fiscal year 2006 and for highway and mass transit spending through fiscal year 2009. The mechanisms to enforce such caps, however, expired at the end of fiscal year 2002.

leadership within two days following receipt of the special message, after which any Member could introduce the President's proposal. The committee to which the bill is referred would have five days to report the bill without substantive revision, and with or without recommendation; if the reporting deadline were not met, the committee would be automatically discharged from consideration of the bill and the bill would be placed on the calendar. A vote on final passage would have to occur by the 10<sup>th</sup> day of session following introduction of the approval bill. Debate would be limited to four hours in the House and 10 hours in the Senate. No amendments to the approval bill would be in order in either chamber. Additional expedited procedural rules are detailed for consideration of the approval bill.

The LLIVA as introduced would allow the President to withhold any budget authority proposed for rescission for up to 180 days following transmittal of the special message. Likewise, the President could suspend the execution of any item of direct spending contained in a special message for 180 days. The legislation would allow, but not require, the President to release the funds before the expiration of the 180 days.

The provisions allowing the President to withhold funds proposed for rescission or to suspend the execution of an item of direct spending for 180 days have not been previously seen in expedited rescission bills. Supporters of these provisions contend that they would provide for a temporary withholding or suspension until Congress has a chance to consider a President's request, and that such a mechanism is necessary so that Congress would have the opportunity to act on a President's rescission proposal received just before an extended recess or period of adjournment. Others see these provisions as subject to abuse and unnecessary, with the expedited procedures in LLIVA usually ensuring a final vote on the President's request within a month. Therefore, in their view, a period considerably shorter than 180 days would suffice to give Congress the opportunity to act on a special message. They also point out that there is nothing in the bill that would prohibit the President from initiating multiple 180-day withholding periods.

Critics of the 180-day withholding mechanism view the provisions as arguably sanctioning the return of policy deferrals, originally provided for in the ICA, subject to a one-house veto, but invalidated by the *INS. v. Chadha* (462 U.S. 919 (1983)) and *City of New Haven v. United States* (809 F.2d 900, D.C. Cir. 1987) decisions, as well as the statutory provisions in P.L. 100-119.<sup>5</sup> Supporters of the 180-day provision stress that this is the maximum period that the funding could be deferred, and the bill language would allow the President to release the funds earlier "if the President determines that continuation of the deferral would not further the purposes of this Act." The language, however, would not require early release of funds, even if one chamber voted to reject the approval bill.

Language in the LLIVA states that its provisions are severable. For purposes of judicial review, this means that if a court found a portion of the measure to be unconstitutional, the remainder of its provisions would remain in force. The act would become effective upon signing and would apply only to spending or tax provisions contained in bills enacted after its passage.

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<sup>5</sup> For further discussion of policy deferrals, see CRS Issue Brief IB89148. For further discussion of possible constitutional issues, see CRS Report RL33365, *Line Item Veto: A Constitutional Analysis of Recent Proposals*, by Morton Rosenberg.

## Other Expedited Rescission Bills in the 109<sup>th</sup> Congress

In addition to the administration's proposal (the LLIVA, H.R. 4890/ S. 2381), several other measures with expedited rescission provisions have been introduced in the 109<sup>th</sup> Congress. An omnibus budget reform measure, H.R. 2290, introduced by Representative Jeb Hensarling and others on May 11, 2005, contains provisions for expedited rescission in Section 311, "Enhanced Consideration of Certain Proposed Rescissions." The provisions would authorize the President to propose a rescission of any budget authority in an appropriations act that he identifies as "wasteful." Along with the proposed rescission, the President could also propose to reduce the appropriate discretionary spending limits for new budget authority and outlays under the Balanced Budget and Emergency Deficit Control Act of 1985 by an amount not exceeding the proposed rescission. Provisions for the special message and accompanying draft approval bill are similar to those in the LLIVA; however, H.R. 2290 would limit the President to just one message for each appropriations act, unless the act included accounts falling within the jurisdiction of more than one appropriations subcommittee, in which case the President would send a separate special message and accompanying draft bill for accounts within the jurisdiction of each subcommittee.<sup>6</sup>

Representative Mark Udall has introduced three expedited rescission measures in the 109<sup>th</sup> Congress,<sup>7</sup> the most recent of which—H.R. 4699—was introduced on February 1, 2006. The stated purpose of the bill, the "Stimulating Leadership in Cutting Expenditures Act (or SLICE Act) of 2006," is "to enable the President to require Congress to debate and vote on certain presidential proposals for reducing spending." The provisions for special messages and expedited procedures in H.R. 4699 would apply to any budget authority provided in an appropriations act or in P.L. 109-59 (119 Stat. 1144, the Omnibus Transportation Authorization Act). As seen in previous measures, the President could submit more than one special message and approval bill if the appropriations act contained accounts under the jurisdiction of more than one appropriations subcommittee. For messages proposing rescission of funds provided in the transportation act, the draft bill would be broken down into sections corresponding to specific projects.

Senator John Kerry introduced S. 2372, the Expedited Budget Item Veto Review Act of 2006, on March 6, 2006. This bill is similar in coverage to the Line Item Veto Act of 1996. S. 2372 would allow the President to suspend and propose for cancellation (1) any dollar amount of discretionary budget authority, (2) any item of new direct spending, and (3) any limited tax benefit. Not later than three calendar days after the date of enactment of the applicable law, the President could submit a special message proposing such cancellations and a draft bill for each item to be cancelled. Provisions for identifying limited tax benefits also reflect those in the 1996 law. Expedited procedures would seek to ensure a vote on final passage of an approval bill by the close of the 10<sup>th</sup> legislative day following its introduction. Items proposed for cancellation in a special message would be made available for obligation or take effect on the date upon which the

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<sup>6</sup> A floor amendment containing similar provisions for expedited rescission was considered by the House in the 108<sup>th</sup> Congress and rejected by a vote of 174-237. See CRS Issue Brief IB89148.

<sup>7</sup> The other expedited rescission bills introduced by Mr. Udall are less comprehensive than H.R. 4699. The first measure, H.R. 982, the Expedited Rescissions Act of 2005, introduced on Feb. 17, 2005, provides for rescission of budget authority only in appropriations acts. H.R. 3966, also titled the SLICE Act and introduced on Sept. 29, 2005, provides for rescission of budget authority both in appropriations acts enacted before Jan. 1, 2006, and in P.L. 109-59, 119 Stat. 1144, in order to offset spending for natural disasters occurring during 2005.



draft bill accompanying the special message were to be defeated in either the House or the Senate.

Representative John Spratt, ranking minority member on the House Budget Committee, introduced H.R. 5667 on June 21, 2006. Title I of this omnibus reform bill provides for a legislative line item veto, with features similar to the expedited rescission bills receiving floor consideration in the House in the 1990s. H.R. 5667 would allow the President to propose cancellation of discretionary spending and limited tax benefit provisions, but direct (mandatory) spending would not be covered. There would be one special message allowed per bill and expedited procedures for congressional consideration of the President's proposals. Like earlier bills, H.R. 5667 would allow 100 members in the House and 16 members in the Senate to seek a separate vote on a spending item or tax provision in the cancellation package, but no other amendments would be in order.

## Comparison of Expedited Rescission Bills

On June 14, 2006, the House Budget Committee held a markup of H.R. 4890 (the Administration's expedited rescission proposal as introduced in the House) and voted 24-9 to report the bill favorably, as amended.<sup>8</sup> The next day the Rules Committee held a markup and voted 8-4 to report an amended version in effectively the same form as that approved by the Budget Committee.<sup>9</sup> On June 22, the House approved H.R. 4890, as amended, by vote of 247-172.<sup>10</sup>

Meanwhile, on June 14, 2006, Senator Judd Gregg, the chair of the Senate Budget Committee, and others held a press conference to unveil the Stop Over Spending Act, which contains a modified version of the Legislative Line Item Veto Act in Title I, as well as other budget process reforms. On June 15, 2006, Senator Gregg and others introduced the bill as S. 3521. On June 20, the Senate Budget Committee marked up S. 3521 and voted 12-10 to report the bill, as amended, favorably.

**Table 1**, at the end of this report, provides a comparative overview of some major features in three expedited rescission bills: (1) H.R. 4890/S. 2381 as introduced, (2) H.R. 4890 as passed by the House (House approved), and (3) Title I of S. 3521, as amended and ordered to be reported by the Senate Budget Committee (Senate reported). The table also includes relevant provisions in the Line Item Veto Act of 1996 (P.L. 104-130), which was overturned by the Supreme Court in 1998.

As indicated in the table, there are some noteworthy differences among the versions. Some features in H.R. 4890/S. 2381 as introduced have been modified in the House-approved and Senate Budget Committee bills to lessen the President's flexibility. For example, the original bills had no deadline for submission of special rescission messages and no limit on the number of special messages. The House-passed version of H.R. 4890 would require submission of special messages within 45 calendar days of enactment of the law that contained the amounts/provisions proposed for cancellation; S. 3521, as ordered to be reported, would allow the submission of a special message up to one year following enactment. Further, the Senate Budget Committee version would limit the President to four special messages per calendar year, whereas the House-

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<sup>8</sup> U.S. Congress, House Committee on the Budget, *Legislative Line Item Veto Act of 2006*, report to accompany H.R. 4890, 109<sup>th</sup> Cong., 2<sup>nd</sup> sess., H.Rept. 109-505, part 1 (Washington: GPO, 2006), 104 p.

<sup>9</sup> U.S. Congress, House Committee on Rules, *Legislative Line Item Veto Act of 2006*, report to accompany H.R. 4890, 109<sup>th</sup> Cong., 2<sup>nd</sup> sess., H.Rept. 109-505, part 2 (Washington: GPO, 2006), 59 p.

<sup>10</sup> "Legislative Line Item Veto Act of 2006," debate and vote in the House, *Congressional Record*, daily edition, vol.152, June 22, 2006, pp. H4433-41, H4467-93.



passed version would set a limit of five special messages per act, or 10 for omnibus measures. With respect to these features, the House-passed version would be more permissive in terms of the total number of special messages, whereas the Senate bill would be more lenient in the timing of their submissions.

The period for withholding of funds after submission of a special message is another feature on which the bills differ. As introduced, the LLIVA would allow the President to withhold funds for up to 180 calendar days despite any congressional action. S. 3521 would limit withholding to 45 calendar days, as would the House-passed version. However, the House-passed version would allow the President a 45-day extension, for a total withholding period of up to 90 days. In addition, the LLIVA, as introduced, included no sunset termination date, whereas the House-passed version provides that the expedited rescission authority would expire after six years (October 1, 2012), and S. 3521, as ordered to be reported, stipulates termination after four years (December 31, 2010).

Some changes in H.R. 4890 as passed by the House and in S. 3521 as ordered to be reported may generate new concerns. Both versions appear to narrow the range of possible targeted tax benefits that may be proposed for cancellation when compared to the Administration's proposal. H.R. 4890/S. 2381 as introduced, along with provisions in P.L. 104-130, would have covered revenue-losing measures affecting 100 or fewer beneficiaries. The House-passed version of H.R. 4890 would apply only to a revenue-losing provision affecting a single beneficiary,<sup>11</sup> whereas S. 3521, as ordered to be reported, defines targeted tax benefits as affecting a particular or limited group of taxpayers (thereby placing its scope somewhere between the Administration's proposal and the House-passed version). Also, the Senate Budget Committee version and the 1996 act would require the Joint Committee on Taxation to identify the targeted tax benefits; the House-passed version would require the chairmen of the Ways and Means and Finance Committees to identify such provisions. The President could only propose a rescission of such identified tax benefits. H.R. 4890/S. 2381 as introduced would allow the President to propose any targeted tax benefit that he identified.

Another change in the House-passed version of interest is its relationship to the Impoundment Control Act of 1974 (known as ICA, Title X of P.L. 93-344). The version approved by the House would repeal the ICA, except for Section 1013 (deferral authority for the President) and Section 1016 (suits by the Comptroller General). H.R. 4890/S. 2381, as introduced, and S. 3521, as ordered to be reported, would amend Title X of the ICA by striking Part C (Line Item Veto Act of 1996) and inserting the text of the bill. At issue is whether the framework for expedited rescissions in the current bills would augment, or replace, rescission authority accorded the President under the ICA to propose rescissions at any time, but with the release of funds after 45 legislative days absent congressional approval.

There were no further substantive changes to H.R. 4890, as amended, during floor consideration. A manager's amendment offered by Representative Paul Ryan was adopted as part of the special rule for consideration, however. In response to apparent concerns raised by the House Transportation and Infrastructure Committee, the amendment added clarifying language that any amount cancelled that came from a trust fund or special fund would be returned to the fund from which it originally derived, rather than revert to the General Fund for deficit reduction.<sup>12</sup> With this

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<sup>11</sup> Although the bill uses the term "single beneficiary," it defines the term in such a way that it could be broader than a single taxpayer.

<sup>12</sup> U.S. Congress, House *Committee on Rules, Providing for Consideration of H.R. 4890, Legislative Line Item Veto Act of 2006*, report to accompany H.Res. 886, 109<sup>th</sup> Cong., 2<sup>nd</sup> sess., H.Rept. 109-518 (Washington: GPO, 2006), 2 p.

exception, all of the changes in H.R. 4890, as approved by the House, occurred during committee markups.

With respect to S. 3521 as ordered to be reported, a manager's amendment offered by Senator Gregg at markup and approved by voice vote made changes in Title I regarding the legislative line item veto, among other things.<sup>13</sup> In its current form, the bill would prohibit the President from resubmitting items of direct spending or targeted tax benefits previously rejected by Congress, but would allow resubmission of proposed cancellations if Congress fails to complete action on them due to adjournment. The amendment also proposes to reduce the period during which the President may suspend new direct spending or targeted tax benefits if the cancellation proposal is submitted after the effective date of the provisions. Otherwise, features included in **Table 1** under S. 3521 as ordered to be reported were unchanged from those in the bill as introduced.

## Some Concluding Thoughts

The provisions for expedited consideration of special messages from the President proposing rescissions of funds have remained quite similar over the years. Various versions of expedited rescission bills pending in the 109<sup>th</sup> Congress all seek to ensure a vote on final passage of the approval bill within 10 days after its introduction in the chamber. In the early 1990s, there were bills with provisions to allow for consideration of a substitute package of rescissions reported by the Appropriations Committee as an alternative to the President's package, or to allow a motion to strike a particular rescission from the approval bill with sufficient support. None of the expedited rescission bills in the 109<sup>th</sup> Congress, except H.R. 5667, contains such provisions.

Expedited rescission bills have differed in scope of coverage over the years. Some earlier bills confined the special messages to proposed rescissions of discretionary budget authority (appropriations). Subsequently, items of direct spending (entitlements) and limited or targeted tax benefits were added. In the 109<sup>th</sup> Congress, H.R. 4699 would add certain transportation projects to the universe of possible cancellations available to the President. The LLIVA in all three versions considered here would grant the President among the most expansive scopes of coverage seen in an expedited rescission bill, by encompassing rescission of any dollar amount of discretionary budget authority or of any new item of direct spending.

The Line Item Veto Act of 1996, with its enhanced rescission framework, was considered even by some of its supporters to have possible constitutional flaws, and the measure contained provisions for expedited judicial review. In contrast, observers tend to view the expedited rescission approach, at least as applied to items of discretionary spending, as passing muster on constitutional grounds. The severability provision in the LLIVA creates further statutory insulation; if one provision were to be found unconstitutional, the remainder of the act would not be affected. For example, if one type of cancellation, such as targeted tax benefits, were to be overturned, the President's authority to submit special rescission messages for expedited consideration, covering items of discretionary budget authority or direct spending, might continue to be available.

In considering prospects for further action on expedited rescission bills, one might wish to keep in mind the continuing involvement of the Bush Administration in seeking enactment of some

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<sup>13</sup> "Panel Approved Broad Budget Process Overhaul," by Steven T. Dennis, CQ Committee Coverage, Senate Budget Committee Markup, June 20, 2006, available electronically at

<http://www.cq.com/display.do?dockey=/cqonline/prod/data/docs/html/committees/109/committees109-2006062000226570.html@committees&metapub=CQ-COMMITTEEMARKUPS&searchIndex=0&seqNum=1>.

version of the LLIVA in the 109<sup>th</sup> Congress. On June 27, 2006, after meeting with a group of Senators at the White House to discuss line item veto legislation, the President called upon the Senate to join the House and quickly pass the line item veto, so he could sign it into law. According to a White House press release, the President wants the item veto to “target pork in large spending bills. It is an essential part of the President’s strategy to reform the budget process and enhance fiscal discipline.”<sup>14</sup>

**Table I. Comparison of Selected Provisions in Three Versions of the Legislative Line Item Veto Act of 2006 and the Line Item Veto Act of 1996**

<b>Nature of provision</b>	<b>P.L. 104-130 Line Item Veto Act of 1996</b>	<b>H.R. 4890/S. 2381, as introduced</b>	<b>H.R. 4890, as passed by the House</b>	<b>S. 3521, Title I, ordered to be reported in Senate</b>
<i>Purpose of bill</i>	To give the President line item veto authority with respect to appropriations, new direct spending, and limited tax benefits.	To provide for the expedited consideration of certain proposed rescissions of budget authority.	To provide for the expedited consideration of certain proposed rescissions of budget authority.	To enable the President and Congress to rescind wasteful spending in an expedited manner.
<i>Relationship to Impoundment Control Act (known as ICA, Title X of P.L. 93-344)</i>	Added a new Part C to contain the Line Item Veto Act of 1996.	Title X amended by striking Part C and inserting text of this act.	Title X amended by striking all of Part B (except for Sections 1013 and 1016, redesignated as Sections 1019 and 1020) and all of Part C, and inserting text of this act.	Title X amended by striking Part C, and inserting text of this act.
<i>Deadline for submission of special rescission or cancellation messages</i>	Within five days (Sundays excluded) after enactment of the law providing such amount, item, or tax benefit.	None.	Within 45 days of enactment of a law containing (1) the amount of discretionary budget authority, (2) the item of direct spending, or (3) the targeted tax benefit.	Within one year of the date of enactment of (1) any amount of discretionary budget authority, (2) item of direct spending, or (3) targeted tax benefit.
<i>President may propose rescission of discretionary spending</i>	Yes, amounts in appropriations acts or represented separately in managers’ statement, et al.	Yes, amounts in appropriations acts or represented separately in managers’ statement, et al.	Yes, amounts in appropriations acts or represented separately in managers’ statement, committee reports, et al.	Yes, amounts in appropriations acts or represented separately in managers’ statement, committee reports, et al.

<sup>14</sup> White House, Office of the Press Secretary, “Fact Sheet: the Legislative Line-Item Veto: Constitutional, Effective, and Bipartisan,” June 27, 2006, available electronically at <http://www.whitehouse.gov/news/releases/2006/06/20060627-2.html>.

Nature of provision	P.L. 104-130 Line Item Veto Act of 1996	H.R. 4890/S. 2381, as introduced	H.R. 4890, as passed by the House	S. 3521, Title I, ordered to be reported in Senate
<i>President may propose to modify/rescind direct (mandatory) spending</i>	committee reports, et al.  Yes, may propose to rescind items of new direct spending, including entitlement authority and the food stamp program.	committee reports, et al.  Yes, may modify or rescind any items of direct spending, including entitlement authority and the food stamp program.	Yes, may propose to rescind new direct spending provisions that would result in spending increases. Does not cover extension or reauthorization of existing direct spending.	Yes, may propose to rescind new items of direct spending, meaning budget authority provided by law other than appropriations acts, mandatory spending provided in appropriations acts, and entitlement authority.
<i>President may propose to cancel tax benefits</i>	Yes, any revenue-losing provision affecting 100 or fewer beneficiaries. Joint Committee on Taxation to compile listing of applicable provisions.	Yes, any revenue-losing provision affecting 100 or fewer beneficiaries, as identified by the President.	Yes, any revenue-losing provision affecting a single beneficiary. Chairmen of Ways and Means and Finance Committees to identify such provisions.	Yes, any revenue-losing provision affecting a particular or limited group of taxpayers. Joint Committee on Taxation to identify such provisions.
<i>Scope of special message and draft bill</i>	For each law from which a cancellation is made, President may transmit a single message.	Not addressed.	Limit of five special messages for each regular act and 10 messages for an omnibus budget reconciliation or appropriation measure. No restriction on combining the three types of cancellations in the same message.	Limit of four special messages per calendar year. One may be submitted with President's budget and up to three at other times. No restriction on combining the three types of cancellations in the same message.
<i>Seriatim rescissions possible</i>	No, because of three-day deadline for submitting message.	Yes, resubmission of same rescission not addressed.	No, submission of duplicative proposals in messages is prohibited.	President may resubmit a proposed rescission one more time under either Part B (ICA) or Part C (LLIVA). Prohibits resubmission of direct spending or targeted tax benefits previously rejected by Congress. Allows President to resubmit proposed cancellations if Congress fails to complete action on

Nature of provision	P.L. 104-130 Line Item Veto Act of 1996	H.R. 4890/S. 2381, as introduced	H.R. 4890, as passed by the House	S. 3521, Title I, ordered to be reported in Senate
				them due to adjournment.
<i>Introduction of bill approving or disapproving requests</i>	Cancellations remain in effect unless disapproved by Congress. For disapproval bill to have fast-track procedures, must be introduced within five calendar days of session after receipt of the special message.	Chamber leadership to introduce approval bill within two days of receiving message, or thereafter any Member may introduce approval bill.	Chamber leadership to introduce approval bill within two days of receiving message, or thereafter any Member may introduce approval bill.	Chamber leadership to introduce approval bill within two days of receiving message, or thereafter any Member may introduce approval bill.
<i>Fast-track provisions for floor action</i>	Yes, including one hour general debate and one hour for amendments in House, and 10 hours of total debate in Senate.	Yes, debate on bill not to exceed four hours in House and 10 hours in Senate. Floor vote must occur within 10 days after introduction of bill.	Yes, debate on bill not to exceed five hours in House and 10 hours in Senate.	Yes, debate on bill not to exceed four hours in House and 10 hours in Senate. Floor vote must occur within 10 days after introduction of bill.
<i>Amendments/motion to strike allowed</i>	Amendments to strike a cancellation number or insert a number allowed in Senate, or with support of 50 Members in House.	Amendments are prohibited in both chambers, and divisions are prohibited in the House.	Amendments are prohibited in both chambers, and divisions are prohibited in the House.	Amendments are prohibited in both chambers, and divisions are prohibited in the House.
<i>Abuse of Proposed Cancellation Authority</i>	Not addressed.	Not addressed.	Sense of the Congress provision that no President or other executive branch official should threaten to condition the inclusion or exclusion of any proposed cancellation under this act to any Member's vote in Congress.	Not addressed.
<i>Savings must be used for deficit reduction</i>	Yes, if disapproval bill is not enacted within 30 days of session, 10 days later a lockbox mechanism goes into effect to	Yes, amounts rescinded shall be dedicated only to deficit reduction and not be used as an offset for other spending increases. Provisions for	Yes, amounts rescinded shall be dedicated only to deficit reduction and not be used as an offset for other spending increases. Any amounts cancelled	Yes, amounts rescinded shall be dedicated only to deficit reduction and not be used as an offset for other spending increases. Provisions for

Nature of provision	P.L. 104-130 Line Item Veto Act of 1996	H.R. 4890/S. 2381, as introduced	H.R. 4890, as passed by the House	S. 3521, Title I, ordered to be reported in Senate
	ensure that deficit reduction occurs.	adjustment of committee allocations and budgetary caps.	which came from trust or special funds would return to original fund rather than the general fund. Provisions for adjustment of committee allocations and budgetary caps.	adjustment of committee allocations and budgetary caps.
<i>President may withhold spending</i>	Not an issue. Cancellations are permanent absent enactment of a disapproval bill.	Yes, for a period not to exceed 180 calendar days from the transmittal of the special message, President may withhold discretionary budget authority or execution of direct spending proposed for cancellation.	Yes, for a period not to exceed 45 calendar days from the transmittal of the special message, President may withhold discretionary budget authority, or suspend execution of items of direct spending or targeted tax benefits proposed for cancellation. The President may extend the period for another 45 days; such supplemental message to be submitted between days 40 and 45 in the original period.	Yes, for a period not to exceed 45 calendar days from receipt of the special message, President may withhold discretionary budget authority, and suspend execution of any item of direct spending or targeted tax benefit proposed for cancellation. Period reduced if item of direct spending or targeted tax benefit is already in force prior to proposed cancellation.
<i>Release of funds</i>	If disapproval bill is enacted, the provision(s) that had been cancelled take effect as of the date of the original law.	President may make spending available for obligation or allow execution of the new direct spending earlier than specified if he determines that continuation of the deferral or of the suspension would not further the purposes of this act.	President may make spending available for obligation or allow execution of the new direct spending or targeted tax benefit earlier than specified if he determines that continuation of the deferral or of the suspension would not further the purposes of this act.	President may make spending available for obligation or allow execution of the new direct spending earlier than specified if he determines that continuation of the deferral or of the suspension would not further the purposes of this act.
<i>Sunset provision</i>	Yes, act provided for termination after eight years.	None specified.	Yes, expires after six years (October 1, 2012).	Yes, expires after four years (December 31, 2010).

## Author Information

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